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PTO/SB/21 (05-03)  
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/421,590	
	Filing Date	October 20, 1999	
	First Named Inventor	Dugan et al.	
	Art Unit	2158	
	Examiner Name	A. Baugh	
Total Number of Pages in This Submission	11	Attorney Docket Number	COS98021

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Copy of Executed Declaration;
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	Copy of Letter and Courier Information; and
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	Return Postcard.
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>		
Firm or Individual name	Eden U.I. Stright, Reg. No. 51,205	
Signature		
Date	June 10, 2003	

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Typed or printed name	Tracy Goodwin	
Signature		Date
		June 16, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 130.00

## Complete if Known

Application Number	09/421,590
Filing Date	October 20, 1999
First Named Inventor	Dugan et al.
Examiner Name	A. Baugh
Art Unit	2158
Attorney Docket No.	COS98021

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number  
Deposit  
Account  
Name

13-2491

WorldCom, Inc.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ )

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below	Fee Paid
Independent Claims	Multiple Dependent	-20** =	-3** =		

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ )

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130.00
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ ) 130.00

## SUBMITTED BY

Name (Print/Type) Eden B. Stright

Registration No. 51,205  
(Attorney/Agent)

(Complete if applicable)

Telephone 202.736.6008

Signature

Date June 10, 2003

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Dugan et al.

Confirmation No.: 4368

Serial No.: 09/421,590

Art Unit: 2158

Filed: October 20, 1999

Examiner: A. Baugh

Title: Method and Apparatus for Deploying Service Modules Among Service Nodes  
Distributed in an Intelligent Network**RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)**Commissioner of Patents and Trademarks  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

The decision mailed on April 16, 2003, indicated that the previous Petition did not specify who made contact with Inventor Holmes, and it is unclear who delivered to Mr. Holmes a copy of the application. The undersigned is renewing the petition under the provisions of 37 C.F.R. § 1.47(a) and is submitting the following on behalf of the assignee, MCI Communications Corporation.

On April 30, 2003, a *bona fide* attempt was made to present a copy of the above-referenced application, including claims and drawings, along with the Declaration which were sent via Federal Express courier to Mr. Holmes at his home address. A copy of the cover letter, Declaration and Federal Express Tracking Results: Detail is attached herewith (Exhibit A). This letter stipulates a response due date of May 16, 2003, by Mr. Holmes. MPEP 409.03(d)

On May 9, 2003, a release waiver was signed and left for the courier to leave the package for Mr. Holmes, thereby acknowledged receipt of the subject application and Declaration. Our correspondence to Mr. Holmes requested a response date of May 16, 2003, or we were would assume by lack of a response that he was unable or unwilling to cooperate in prosecution of this application. No verbal or written response has been given by Mr. Holmes to date.

The last known address for Mr. Allen Holmes is as follows:

5375 Chambrey Drive  
Colorado Springs, CO 80919

All the available joint inventors, Ajay P. Deo, Andrew Dugan, Kelvin R. Porter and Terence A. Robb, have executed a Declaration and Power of Attorney on their own behalf as

06/12/2003 SLUANG1 00000008 132491 09421590

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2010FC:1460 date: 00130/000GH

06/12/2003 SLUANG1 00000008 132491 09421590

01 FC:1460 130.00 CR

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JUN 13 2003

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required by 37 CFR § 1.63 (Exhibit B). This Declaration signed by all the available inventors with the signature block of the Allen Holmes, the nonnsigning inventor, should be treated as having been signed by all the available inventors on behalf of the nonsigning inventor. MPEP 409.03(a)

The undersigned believes that the application should be granted status under 37 CFR 1.47(a) and be allowed to proceed with or without the cooperation of Mr. Holmes.

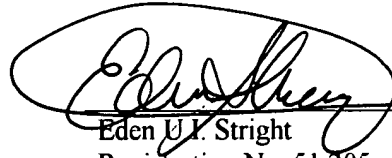
A petition fee of \$130.00 and late filing surcharge of \$130.00 is hereby authorized to be charged to Deposit Account 13-2491. Any other fees under 37 CFR 1.16 or 1.17 required to avoid abandonment of this Application are also hereby authorized to be charged to Deposit Account 13-2491.

In view of the fact that Mr. Holmes has received a copy of the Application and Declaration and has been unwilling to review the application or sign the Declaration, that the Declaration executed by the four available inventors is an acceptable Declaration under 37 C.F.R. §1.63, that the appropriate petition fee under 37 CFR § 1.17(h) is provided, and that Mr. Holmes's last known address has been provided, the granting of this Petition is respectfully requested.

Respectfully submitted,

Date:

6/9/03

  
Eden U. Stright  
Registration No. 51,205

WorldCom, Inc.  
Technology Law Dept.  
1133 19th Street, N.W.  
Washington, DC 20036  
(202) 736-6008

**EXHIBIT A**

**WORLD COM**

Public Policy  
Technology Law Group  
1111 12th Street, NW  
Washington, DC 20036

May 8, 2003

Allen Holmes  
5375 Chambrey Drive  
Colorado Springs, CO 80919

VIA COURIER

Re: U.S. Patent Application for  
"Method and Apparatus for Deploying Service Modules Among Service Nodes  
Distributed in an Intelligent Network"  
Docket No. COS98021

Dear Mr. Holmes:

We have previously attempted to reach you in regard to the above-noted patent application filed October 20, 1999. You are named as an inventor in this application and consequently the United States Patent and Trademark Office (USPTO) is now requesting that we submit the required formal papers with your signature.

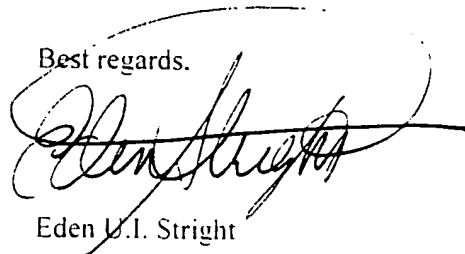
We have enclosed a copy of the entire patent application, including the specification, claims, and drawings as currently on file with the USPTO. Please review the entire application and sign and date the enclosed Declaration and Assignment forms where your name is listed. So that we may respond to the USPTO in a timely fashion, please promptly complete and return the signed forms in self addressed stamped envelop enclosed herewith.

If we do not receive some form of response from you by May 16, 2003, we will assume that you are either unable or unwilling to cooperate in further supporting this patent application.

In accordance with our duty of disclosure to the U.S. Patent and Trademark Office, if you or any one substantively involved in the application is aware of any information, such as other patent applications, patents or technical documents, not already called to our attention, which is relevant to the subject matter or examination of the application, please provide us with such information so that we may submit it to the U.S. Patent and Trademark Office for their consideration.

Should you have any questions about any of the above, please contact me at 202-736-6008.  
Thanks in advance for handling this promptly.

Best regards.



Eden U.I. Stright

Enclosures

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**JUN 13 2003**

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**Shipment Details**

<b>Ship To:</b>	Allen Holmes 5375 Chambrey Drive Colorado Springs, CO 80919 US 202.736.6008	<b>Type of Package:</b> <b>Pickup/Drop Off</b>	FedEx Envelope will use scheduled pickup
<b>From:</b>	EDEN STRIGHT WORLD.COM, INC 1133 19TH STREET NW WASHINGTON, DC 20036 US 202.736.6008	<b>Total Weight:</b> <b>Declared Value:</b> <b>Shipper Account Number:</b> <b>Bill Shipment To:</b> <b>Courtesy Rate Quote*:</b> <b>Special Services</b> <b>Shipment Type:</b>	1 LBS 0 USD 256718189 256718189 *5.32 Express
<b>Tracking Number:</b>	791375482994		
<b>Ship date:</b>	May 8 2003		
<b>Type of service:</b>	Standard Overnight		

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FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits; Consult the applicable FedEx Service Guide for details.

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Recipient

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Arrived at FedEx Ramp/COLORADO SPRINGS CO

05/09/2003 05:38

Left FedEx Sort Facility/MEMPHIS TN

05/09/2003 04:38

Left FedEx Sort Facility/MEMPHIS TN

05/09/2003 00:31

Arrived at Sort Facility/MEMPHIS TN

05/09/2003 00:05

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Picked up by FedEx/WASHINGTON DC

05/08/2003 19:57

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**EXHIBIT B**

# DECLARATION AND POWER OF ATTORNEY FOR UTILITY PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Method and Apparatus for Deploying Service Modules Among Service Nodes Distributed in an Intelligent Network**

the specification of which

- ☐ is attached hereto  
☒ was filed on 10/20/99 as Application Serial No. 09/421,590  
 and was amended on

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I do not know and do not believe that the same was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof of more than one year prior to this application, and said invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code §119 (a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

(number) (country) (date filed)

Priority Claimed

☐ yes ☐ no

(number) (country) (date filed)

☐ yes ☐ no

Patent Docket No.:

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

(Application Number(s))

(Filing Date mm/dd/yy)

60/061,173

10/6/97

60/104,890

10/20/98

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) or Section 365(c) of any PCT international application designating the United States of America, listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Serial No.)

(Filing date)

(Status)

09/128,937

8/5/98

Pending

I hereby appoint Timothy D. Casey, Reg. No. 33,124; Albert M. Crowder, Jr., Reg. No. 28,063; Jubin Dana, Reg. No. 41,400; Carl Evens, Reg. No. 33,874; Deborah Miller, Reg. No. 37,679; Stephen Pentlicki, Reg. No. 40,125; Craig L. Plastrik, Reg. No. 41,254; Paul A. Roberts, Reg. No. 40,289; and Jessica Young, Reg. No. 39,884 my attorneys and Satheesh Karra, Reg. No. 40,246 my patent agent with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

Send correspondence to:  
Technology Law Department  
MCI WORLDCOM, Inc.  
1133 19<sup>th</sup> STREET NW  
WASHINGTON, D.C. 20036

Direct Telephone Calls To:  
(719) 535-1451

I hereby declare that all statements made herein of my knowledge are true and that all statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of Sole or First Inventor: Ajay P. Deo

P.O./Residence Address: 2508 Sir Tristram Lane, Lewisville, Texas 75056

Citizenship: India

Signature: X *Ajay Deo*

Date: 2/4/2000

Full name of Additional Joint Inventor, if any: Andrew Dugan

P.O./Residence Address: 1855 Eldorado Circle, Superior, Colorado, 80027-8279

Citizenship: USA

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of Additional Joint Inventor, if any: Allen Holmes

P.O./Residence Address: 5375 Chambrey Drive, Colorado Springs, Colorado 80919

Citizenship: USA

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Patent Docket No.:

I hereby claim the benefit under Title 35, United States Code § 119(c) of any United States provisional application(s) listed below.

(Application Number(s))	(Filing Date mm/dd/yy)
60/061,173	10/6/97
60/104,890	10/20/98

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) or Section 365(c) of any PCT international application designating the United States of America, listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code, Section 112. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Serial No.)	(Filing date)	(Status)
09/128,937	8/5/98	Pending

I hereby appoint Timothy D. Casey, Reg. No. 33,124; Albert M. Crowder, Jr., Reg. No. 28,063; Jubin Dana, Reg. No. 41,400; Carl Evens, Reg. No. 33,874; Deborah Miller, Reg. No. 37,679; Stephen Pentlicki, Reg. No. 40,125; Craig L. Plastrik, Reg. No. 41,254; Paul A. Roberts, Reg. No. 40,289; and Jessica Young, Reg. No. 39,884 my attorneys and Satheesh Karra, Reg. No. 40,246 my patent agent with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

Send correspondence to:  
Technology Law Department  
MCI WORLDCOM, Inc.  
1133 19<sup>th</sup> STREET NW  
WASHINGTON, D.C. 20036

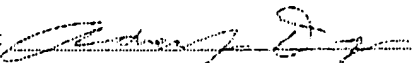
Direct Telephone Calls To:  
(719) 535-1451

I hereby declare that all statements made herein of my knowledge are true and that all statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of Sole or First Inventor: Ajay P. Deo  
P.O./Residence Address: 2508 Sir Tristram Lane, Lewisville, Texas 75056  
Citizenship: India

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Full name of Additional Joint Inventor, if any: Andrew Dugan  
P.O./Residence Address: ~~1855~~ Eldorado Circle, Superior, Colorado, 80027-8279  
Citizenship: USA ~~1955~~ 47 4700

Signature:  Date: 2/4/99

Full name of Additional Joint Inventor, if any: Allen Holmes  
P.O./Residence Address: 5375 Chambrey Drive, Colorado Springs, Colorado 80919  
Citizenship: USA

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Patent Docket No.:

Full name of Additional Joint Inventor, if any: Kelvin R. Porter  
P.O./Residence Address: 17319 Calla Drive, Dallas, Texas 75252  
Citizenship: USA

Signature: Kelvin R. PorterDate: February 3~~rd~~, 2000

Full name of Additional Joint Inventor, if any: Terence A. Robb  
P.O./Residence Address: 223 Chatham Drive, Colorado Springs, Colorado 80906  
Citizenship: USA

Signature: T. A. RobbDate: 2/2/00

Full name of Additional Joint Inventor, if any:  
P.O./Residence Address:  
Citizenship:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of Additional Joint Inventor, if any:  
P.O./Residence Address:  
Citizenship:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of Additional Joint Inventor, if any:  
P.O./Residence Address:  
Citizenship:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of Additional Joint Inventor, if any:  
P.O./Residence Address:  
Citizenship:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**DOCKETED**

Paper No. 15

WORLD.COM, INC.  
1133 19TH STREET NW  
WASHINGTON, DC 20036Due Date  
6/16/2003**COPY MAILED**

APR 16 2003

In re Application of  
Dugan et al.  
Application No. 09/421,590  
Filed: October 20, 1999  
Attorney Docket No. COS-98-021**OFFICE OF PETITIONS  
ON PETITION**This decision concerns the February 16, 2000 petition under 37 CFR 1.47(a).<sup>1</sup>The petition is **DISMISSED**.

Five inventors are named in this application. The petition, accompanied by a declaration signed by all of the inventors except Allen Holmes ("Holmes") ("2/16/00 Declaration"), asserts that Holmes refuses to sign the declaration and requests that the available inventors be allowed to file this application on behalf of themselves and Holmes.

Under 37 CFR 1.47(a), the available inventors may file this application on behalf of themselves as well as Holmes provided that a *bona fide* attempt has been made to present to Holmes, for review and signature, a copy of the **entire application (specification including claims; drawings);** and that the latter refuses to join in this application.<sup>2</sup>

To show that Holmes has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Holmes at his last known address,<sup>3</sup> and his subsequent refusal.<sup>4</sup>

<sup>1</sup> This petition was recently forwarded to the Office from the Examiner. The Office sincerely apologizes for any inconvenience caused by the delay.

<sup>2</sup> See *infra* note 4.

<sup>3</sup> 37 CFR 1.47(a); MPEP section 409.03(e) (Aug. 2001).

<sup>4</sup> MPEP section 409.03(d) (Aug. 2001) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

The petition encloses an affidavit by Albert M. Crowder, Jr. ("Crowder") ("Crowder Affidavit"), counsel for Assignee, setting forth that:

- (1) Holmes, "when contacted regarding execution of the declaration and assignment relating to the . . . application, . . . refused to join in . . .",<sup>5</sup>
- (2) In September of 1999, a copy of the application "was delivered to [Holmes at] his last known address",<sup>6</sup>
- (3) Holmes "informed MCI WorldCom that he refused to join in this application" but Crowder went ahead and sent Holmes a reminder letter in February of 2000;<sup>7</sup> and
- (4) Holmes has declined to reply.<sup>8</sup>

However:

- The petition does not specify who made the contact with Holmes, and in what manner [(1) above]; or to whom in MCI did Holmes indicate his refusal to join in this application [(3) above];
- It is unclear who delivered, or had delivered, to Holmes, a copy of the application in September of 1999; or whether that copy of application was complete with the specification including claims, as well as drawings [(2) above];
- The petition provides no explanation how Crowder reached his conclusion in (4), that Holmes declined to reply [to Crowder's requests]; or that Holmes' lack of response represents his refusal to join in this application.<sup>9</sup>

Consequently, the Office is unable to conclude that the Crowder Affidavit constitutes the "statement of facts" required for granting a petition under 37 CFR 1.47(a). The instant petition is thus dismissed, and the 2/16/00 Declaration is not accepted.

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<sup>5</sup> Crowder Affidavit, page 1, paragraph 3.

<sup>6</sup> Crowder Affidavit, page 1, paragraph 4, 2nd sentence.

<sup>7</sup> Petition, page 1, paragraph (II)(2), 2nd to the last sentence.

<sup>8</sup> Petition, page 1, paragraph (II)(2), last sentence; Crowder Affidavit, page 1, paragraph 4, last sentence: "Holmes has steadfastly refused to reply to our requests."

<sup>9</sup> There is no evidence that counsel has confirmed with Holmes regarding his receipt of the application papers delivered in September of 1999.

**Options**

To prevent abandonment of this application, **either** of the following must be filed within **TWO MONTHS** from the mailing date of this decision:<sup>10</sup>

**OR,** (1) An oath/declaration properly executed by **all** of the inventors, including Holmes;<sup>11</sup>

(2) A renewed petition under 37 CFR 1.47(a) (no fee) that:

-includes appropriate statement(s) regarding: the fact that a copy of the entire application (specification including claims; drawings) was provided to Holmes at his last known address; and, those facts relied upon to conclude that Holmes refuses to join in this application; and

-is addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO  
Attn: Office of Petitions  
Crystal Plaza Four, Suite CP4-3C23  
2201 South Clark Place  
Arlington, VA 22202

by fax: (703) 308-6916  
Attn: Office of Petitions

As authorized in the instant petition, the \$130 petition fee has been charged to Deposit Account No. 13-2491.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.



RC Tang  
Petitions Attorney  
Office of Petitions

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<sup>10</sup> Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained. See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) to avoid abandonment.).

<sup>11</sup> Submit directly to the Office of Initial Patent Examination, along with a copy of this decision.